UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 93-1123

ROBERT DIGIAN

Appellant

v.

WILLIAM CLINTON

On Appeal from the United States
District Court for the
Eastern District of Pennsylvania
(D.C. Civ. No. 92-05494)
District Judge: Hon. Lowell A. Reed, Jr.

Submitted Pursuant to Third Circuit
LAR 34.1(a)
August 13, 1993

Before: SLOVITER, Chief Judge
COWEN and LEWIS, Circuit Judges

PETITION FOR REHEARING OF PANEL
AND EN BANC

TO: THE HONORABLE JUSTICES IN THE ABOVE-ENTITLED CAUSE OF ACTION

Pursuant to the JUDGMENT ORDER of this Court's Chief Judge, SLOVITER, and Circuit Judges COWEN and LEWIS submitted on August 30, 1993, and adjudicated by the Clerk, P. Douglas Sisk, and Rule 40 R.A.P., to include Third Circuit IOP Chapter 9.

PETITIONER/APPELLANT, Robert DiGian, moves the court panel to rehear and a rehearing en banc. The PETITIONER invokes that the Courts have overlooked and/or misapprehended the complicity of points of law and in equity what specifically is claimed for relief. The anticipatory breach of contract by

Appellee maintains subject matter injury requiring Appellant's immediate relief from further imminent danger.

This Court to maintain uniformity of its decisions, when no Court has been invoked to respond to the Appellant's specific relief for the last 204 years since John Jay the first Justice, must agree that the proceedings involved questions make for a rare and most exceptional importance indeed. Even more rare the anticipatory relief requires by necessity to vacate the currently unlawfully held and exercise office of the illegally seated and alleged 42nd President of the United States of America. This being the exercise of procedural due process of a null and void retroaction and prior to the 1992 General Election Process. This action results in

the Court's comprehension of the argument relating to the subject matter and rendering a declaratory judgment to disqualify a "Presidential Candidate" by invoking jurisdiction of an Article III Court. Same Courts must have overlooked the exhibits submitted to the courts that reveal the deluge of facts supporting the equity matters and apparent points of law that justify the impetus to have Article III Courts to execute the demanded relief this in line with the existing doctrines of the declaratory judgment acts.

The declared fact is that the United States Constitution is as a principal Contract and Appellant's claim is that in equity he is the owner of the United States Constitutional Contract. Owner also by virtue of being a natural inhabitant in posterity of WE THE PEOPLE

this being Appellant DiGian's incorporeal hereditament rights to have standing to petition his in equity own personal government employing due process for redress of grievances. As owner of "contract" there is presumed personal stake and most concrete. Given Appellant is trustee to the Constitutional "Contract" makes entitlement to maintain the action before the Courts self-evident.

The Appellee who has applied as "presidential candidate" is to do so under "contract" and for a term of good behavior Art III Sec 1 (enumerated). The facts are replete with fraud in the Appellee's behavior by law. This action under "Contract" is known as "disorderly behavior" Art I, Sec 5 (enumerated) and herein begins the anticipatory breach of

contract, the little is a lot, the Appellee demonstrated the breach of contract in his fraudulent behavior to which he has been challenged in a court of competent jurisdiction this to show cause why he should not be disqualified as a "presidential candidate". Appellant has the authority to demand good behavior of a "presidential candidate" in performance with the "principal contract". When "contract" present duty performance is contrary to justice and lives to obstruct justice as is the case and controversy before the courts and this by reason of blatant anticipatory breach of "United States Constitutional Contract" when applying for or campaigning for any office of the United States involving Honor, Profit or Trust and is outcome of words or acts evincing an intention to refuse performance in the

future. This requires swift immediate action to enjoin and/or banish the actor or in this case the "presidential Candidate". TOTAL RECALL - Complaint was filed prior to the political election process on September 22, 1992. Called for in the Complaint was a special extraordinary emergency relief. The five-month delay in the lower court decision has necessitated the removal of a seated president but due process makes provision to do so. The Supreme Court Historical Doctrines speak and address that once the "Political Election Process" is crossed over in effect the die is cast and no remedy exists for an inhabitant such as the Appellant when impeachment is solely for both houses of Congress. But this matter before the Court came at a time prior to the General Election of 1992 a time of filing the

complaint on September 22, 1992, a time when no legislative jurisdiction has authority to address performance or qualification defects of a "Presidential Candidate" specifically where the Candidate is not an Officer, agent or employee of the United States. "Presidential Candidates" reside in a vacuum at that plateau. The Appellant invoked the Article III Courts the only jurisdictional format available to address federal questions when no other jurisdiction is available and this being diversity of citizenship for states of Pennsylvania and Arkansas, male inhabitants who are interested parties to the case. These subject matters of fraud and false statements U.S.C. 18 § 1001, perjury, fraud in the factum, insurrection against the United States, all felonies and to be viewed as High

Crimes and Misdemeanors making a most live controversy and rare action which must require rare judicial review by as many heads as possible. Appellants believe therefore speaks his mind based on 12 months of diligent protracted research and reasoned that the merits of this action has the impetus to spirit the former "Presidential Candidate" now as unlawful occupant of Presidency out of office retroactive to the filing of the Complaint. Any decision other than the relief demand of declaration to disqualify the "Presidential Candidate" for anticipatory breach of contract would violate the Appellant's due process rights the same requiring relief from the personal stake standing in equity ownership of U.S. Constitutional Contract. The Supreme Court's longstanding doctrines on anticipatory

breaches of contract, the U.S. Constitution being the subject contract in question. At the level of Third Circuit, the full court is necessary to secure and maintain uniformity of decisions on Contract performance matters to rule against this matter would be contrary to all contract decisions settled by the Supreme Court to date.

WHEREFORE, Plaintiff/Appellant/ Petitioner Robert DiGian respectfully requests that the court reason together and grant the petition for rehearing by panel and rehearing en banc to re-review the evidence produced and the equity found in the points of law, files, briefs, reply briefs, original Complaint

wording and exhibits any and all records of the Case presented documents.

Dated: September 13, 1993

Robert DiGian

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v.

WILLIAM CLINTON

SUR PETITION FOR REHEARING

Present: SLOVITER, Chief Judge, BECKER, STAPLETON, MANSMANN, GREENBERG, HUTCHINSON, SCIRICA, COWEN, NYGARD, ALITO, ROTH and LEWIS, Circuit Judges

The petition for rehearing filed by Appellant Robert DiGian in the above-entitled case having been submitted to the judges who participated in the decision of this court and to all the

other available judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

By the Court,

Sloviter
Chief Judge

Dated: Sep 29 1993

Received and Filed

9-29-93 ko
P. Douglas Sisk,
Clerk